

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOHN VELEZ, 83A6764,

Plaintiff,

v.

ORDER  
08-CV-806

C.O. HARTKE, C.O. BRUNER, and  
SUPERINTENDENT BURGE,

Defendants.

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This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1). On August 25, 2010, defendants filed a motion for summary judgment and on September 15, 2010, plaintiff filed a cross-motion to dismiss. On March 22, 2011, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendants' motion be granted and that plaintiff's cross-motion be denied.

Plaintiff filed objections to the Report and Recommendation on May 2, 2011 and defendants filed a response thereto on May 5, 2011.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendants' motion is granted and plaintiff's cross-motion is denied.

The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

*s/ Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: June 21, 2011